

September 25, 1998

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Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

Re: *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability.* CC Docket No. 98-147

Dear Ms. Salas:

I am enclosing an original and four (4) copies of the Comments of TCA, Inc in response to the Commission's Notice of Proposed Rulemaking in the above-captioned matter. I am also providing one diskette copy to Janice Myles of the Common Carrier Bureau's Policy and Program Planning Division, and one paper copy and one diskette copy to International Transcription Service.

If you have any questions regarding this filing, please give me a call.

Sincerely,



Chris Barron
Regulatory Consultant

Enc.

cc: Janice Myles, CCB
International Transcription Service

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of Deployment of Wireline
Services Offering Advanced
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CC Docket No. 98-147

Comments of

TCA, Inc

September 25, 1998

Introduction

TCA, Inc. - Telcom Consulting Associates (TCA) hereby submits these comments in response to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) in the above-captioned docket. TCA is a consulting firm which performs financial and regulatory services for over fifty rural telephone companies throughout the United States. The NPRM raises issues which affect all rural telephone companies in that it addresses the provision of advanced telecommunications services. These comments address the concerns of our clients.

Summary

TCA wishes to stress to the FCC that the issue before addressed in the NPRM will determine if rural Americans become information "haves" or "have-nots". The FCC's decisions in this and the companion¹ proceeding will impact the way rural telephone companies provide the advanced services envisioned by Section 706 of the Federal Act. To prevent information "have-nots" in rural America, the FCC must carefully balance the needs of the customer with the needs of the rural telephone company which provides universal service in high cost areas of the country, all in a way that does not stifle competition. Rural telephone companies must have a viable option for providing advanced services. TCA commends the FCC in its proposal to allow incumbent LECs to provide advanced services through a separate affiliate. However, for reasons stated below, the

¹ Notice of Inquiry, CC Docket 98-146, *In the matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*

FCC's proposed rules under which an advanced services affiliate must operate are too onerous and economically infeasible for most rural telephone companies and the areas they serve. In addition, the FCC's proposals will not give all rural telephone companies an option for providing advanced services. The FCC should consider relaxing certain interconnection requirements of the Federal Act as they relate to rural telephone companies. TCA offers some suggestions on the separate affiliate proposal and ways it can be improved so that it works for customers in rural areas, rural telephone companies, and competition in general. TCA also offers suggestions on how the interconnection requirements of the Federal Act should be relaxed for rural telephone company provision of advanced services.

Importance of Advanced Services

As stated in the companion NOI, the FCC's goal in that proceeding and this proceeding is to give advanced technology "every opportunity to flourish" because "advanced capability and services can create investment, wealth, and jobs"². Nowhere is this more important than in rural areas of the country. A big attraction for businesses locating in rural areas was and continues to be a state-of-the-art telecommunications system. More and more, we are seeing businesses locate in rural areas because of quality of life issues, but at the same time businesses must have a "virtual" connection to their particular market and customer base. The provision of advanced services in rural areas of the country is a vital part of keeping rural America thriving.

² NOI, CC Docket 98-146 at paragraph 1

The question is not *if* Americans living in rural areas should have access to advanced services, but when, how, and at what cost. Without careful consideration of the impact of its rules on the providers of last resort in rural areas, advanced service technology may come slowly to rural areas or at a cost that only certain customers can afford. The FCC cannot, at least initially, depend solely on competitive forces to ensure that advanced services are deployed rapidly in rural areas. Other incentives must exist in order for Section 706's mandates to become a reality in rural areas.

It is TCA's recommendation that the FCC and state commissions provide rural carriers with an option of how to provide advanced services, much as the FCC has touched upon in the NPRM. Each company must decide whether to provide advanced services on an integrated basis or through a separate affiliate. In order to make this decision, rural companies must have at least two viable options. As explained further below, the FCC's proposals in the NPRM are a good start, but must be modified if rural carriers are to have options for providing advanced services.

Advanced Services Affiliates

TCA believes that providing advanced services through a separate affiliate, as proposed by the FCC³, presents several problems. TCA's clients have been struggling with the question of how to provide advanced services in areas where the combination of high cost and low demand make

³ NPRM at Paragraph 92

it difficult, if not impossible, to deploy advanced services without some type of incentive or support. Indeed, several states are contemplating including advanced services, such as ISDN or xDSL, in the definition of universal service⁴. These states recognize that for some rural areas, advanced services will only become a reality if the proper incentive and support is available. TCA sees the FCC's affiliate proposal as an incentive to invest in advanced technologies, but there are several modifications that should be made before the proposed rules are applied to rural telephone companies.

TCA believes that the FCC already has rules and precedent in place for rural telephone companies to provide advanced services through a separate affiliate. We refer the FCC to section 64.1903 of its rules. These rules, while applicable to the provision of in-region, interstate, interexchange services by incumbent independent LECs (ILEC), could be modified and made applicable to the provision of advanced services by rural incumbent LECs. These rules are working effectively for independent LECs. Any rules beyond these which are required for an ILEC advanced service affiliate to be declared a non-incumbent would be overly burdensome and would discourage the deployment of advanced technologies in rural areas.

It is vital that rural LECs be provided incentive to invest in advanced technologies. TCA is not

⁴ For instance, Kansas Law requires that ISDN, or the technical equivalent, be available as an "enhanced universal service" by July 1, 2003. See in general K.S.A 1997 Supp. 66-1,187 and K.S.A Supp. 66-2005

suggesting a non-level "playing field" tilted in favor of the incumbent, but rather incentives for rural LECs to begin deployment of advanced services absent an immediate economic reason. Currently, the costs are extremely high and the demand is so low in most rural LEC service areas that providing advanced services does not make economic sense. This is especially true when a rural LEC considers that providing advanced services on an integrated basis may invite competitive LECs to enter a rural area and "cherry pick" advanced services customers.

TCA believes that, as stated in the NPRM, all companies must make a business decision whether to provide advanced services on an integrated basis or through a separate affiliate⁵. For rural LECs, the separate affiliate option, as spelled out in the NPRM, is not an option, and should be modified as follows. First, the affiliate should be required to maintain separate books of account. Second, the affiliate should not jointly own switching or transmission facilities with its affiliated incumbent. Third, the advanced services affiliate of an incumbent LEC should be allowed to share personnel and other resources or assets with the affiliated LEC, as long as the relationship complies with other FCC rules regarding cost allocations and affiliate transactions. Finally, the advanced services affiliate should interconnect with the affiliate incumbent LEC pursuant to tariff or interconnection agreement, and the terms contained therein should be made generally available to other unaffiliated competitors and providers of advanced services, should competition be found to be viable and in the public interest in rural areas.

⁵ NPRM at Paragraph 86

The key point in TCA's separate affiliate requirements is that the non-regulated (and non-incumbent) advanced service affiliate must be allowed to share resources (including personnel) and assets, other than switching or transmission facilities. The FCC's proposal requires advanced services affiliates to, among other things, have their own employees and perform their own operating, installation, and maintenance functions. While these types of requirements may be feasible for large companies, they make it impossible for advanced services affiliates of rural LECs to deploy advanced services in any reasonable manner. The FCC's proposed rules would not provide rural carriers with a viable option, and would therefore stifle deployment of advanced services.

Treatment of Rural LECs

The FCC should consider treating rural LECs differently from non-rural LECs in this proceeding. The FCC has done this consistently in its implementation of the Federal Act, and should continue to do so. As a second option for rural telephone companies in offering advanced services, the FCC should allow service provision on an integrated basis. Along with implementing changes to the advanced service affiliate rules as offered above, the FCC should consider providing a blanket exemption for rural LECs to section 251(c) requirements as they relate to unbundling and resale of advanced services. TCA believes that competition, should it be proven to be viable in rural areas, would not be threatened as the rural incumbent LECs would still be required to provide access to the properly conditioned loops, the so-called "last mile"

necessary in the provision of advanced services. In this way, advanced service competition would occur on a fair, facilities-based manner. In other words, competition for advanced services in rural areas should require infrastructure investment by all entrants, not just the incumbent and/or its affiliate. This is the only way to properly provide incentive for incumbent LECs to deploy advanced services.

TCA also recommends that any universal service support which is made available for the deployment of advanced services in high cost, rural areas be made available to all providers. This includes the incumbent carrier, whether on an integrated or separate affiliate basis, and to any competitive provider, so far as competition is proven to be viable in rural telephone company areas.

Summary

TCA urges the FCC to recognize the inherent differences in the areas served by rural telephone companies and the impact those differences will have on the provision of advanced services. While the FCC's separate affiliate proposal has merits, especially in protecting advanced technology investment from Section 251(c) requirements, TCA believes that modifications are necessary, as stated above, before any rules are applied to rural telephone companies or their affiliates.

CC Docket No. 98-147
Comments of TCA
September 25, 1998

Respectively Submitted,

A handwritten signature in cursive script, appearing to read "Chris Barron". The signature is written in black ink and is positioned above a horizontal line.

Chris Barron
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